

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION

No. 4:08-CR-00015-F-1

UNITED STATES OF AMERICA

v.

RAYMOND EMMET BROWN,  
Defendant.

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ORDER

This matter is before the court on Raymond Emmet Brown's March 16, 2015 letter motion [DE-159]. In his letter motion, Brown argues that the 851 enhancement was erroneously applied to him.

Brown is attacking the validity of his sentence; thus, the appropriate avenue to bring this challenge is by way of a § 2255 motion.<sup>1</sup> A review of the record reveals that Brown previously filed a section 2255 motion that was resolved on the merits. *See* [DE-139]. Pursuant to 28 U.S.C. § 2244(b)(3)(A), "[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application." In this case, Brown must first obtain an order from the Fourth Circuit Court of Appeals before this court will consider any successive petition under 28 U.S.C. § 2255.

In light of the foregoing, Brown's March 16, 2015 letter motion [DE-159] is DISMISSED without prejudice to him to seek pre-filing authorization from the Fourth Circuit

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<sup>1</sup>Title 28 Section 2255 states four grounds upon which such relief may be claimed: (1) that the sentence was imposed in violation of the Constitution or laws of the United States; (2) that the court was without jurisdiction to impose such sentence; (3) that the sentence was in excess of the maximum authorized by law; and (4) that the sentence is otherwise subject to collateral attack. 28 U.S.C. § 2255(a).

Court of Appeals. The court finds that Brown has not made the requisite showing to support a certificate of appealability. Therefore, a certificate of appealability is DENIED.

SO ORDERED.

This 1<sup>st</sup> day of March 2015.

  
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JAMES C. FOX  
SENIOR UNITED STATES DISTRICT JUDGE